

51. (New) The method of Claim 45, wherein the L-amino acid is L-lysine.
52. (New) The method of Claim 45, wherein the L-amino acid is L-glutamic acid.
53. (New) The method of claim 45, wherein the L-amino acid is L-proline.--
-

SUPPORT FOR THE AMENDMENTS

Newly added Claims 45-53 are supported by the specification at pages 2-52 and by original Claims 1-26. The recitation of strain MG1655 or W3110 in Claim 45 is supported by the specification at page 9, lines 13-16. No new matter is believed to have been added to this application by these amendments.

REMARKS

Claims 45-53 are now pending.

The objection to the claims for reciting non-elected subject matter is believed to be obviated by the amendment submitted above. The non-elected subject matter is not recited in Claims 45-53.

The rejection under 35 U.S.C. §101 is believed to be obviated by the cancellation of the rejected claims. Accordingly, withdrawal of that ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §112, second paragraph, is believed to be obviated by the amendment submitted above.

Claim 45 recites strain MG1655 or W3110 for comparative purposes. That claim also specifies increasing a copy number of a DNA coding for said protein in a cell or by replacing a promoter with a stronger promoter for expression of a DNA coding for said protein.

Based on the foregoing, Claims 45-53 are definite. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §112, first paragraph, is respectfully traversed.

Increasing the expression amount by increasing the copy number or replacing a promoter with a stronger promoter is a well-established technique in the art, as described at page 11, lines 17-25 of the present specification. For example, in addition to the references mentioned in the response filed on December 23, 2002, a copy of the following references is submitted herewith:

- (1) WO 92/10561 A1
- (2) EP 0 127,328 A2
- (3) U.S. 5,595,889
- (4) Abstract of JP 03147791 A
- (5) Abstract of JP 03147792 A.

References (1)-(3) demonstrate that the methods known in the art for increasing the copy number are not limited to only the use of a multicopy vector. From references (4) and (5), it is clear that replacement of a promoter with a stronger promoter is well-known.

Therefore, in view of the amendments submitted above and the state of the art, the claims are enabled. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §103(a) over Blatter et al. in view of Vrljic et al. and U.S. 6,040,160 is respectfully traversed. These references fail to suggest the claimed method.

Blatter et al. provide information on homology but does not demonstrate whether the YAHN polypeptide is actually an L-amino acid-excreting protein or not. As discussed in the previous response, it is not reasonably expected from the cited reference that the YAHN polypeptide participates in amino acid excretion.

The claims submitted herewith are directed to a method for producing an L-amino acid. In view of the unexpected results obtained with the claimed method, i.e., improved L-amino acid production, the use of a bacterium in which the expression amount of the specified protein is increased for L-amino acid production is not obvious over the cited references. Therefore, withdrawal of this ground of rejection is respectfully requested.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

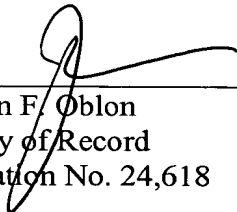
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
NFO/JK/cja

I:\ATTY\JK\00101066-AM.DOC



Norman F. Oblon
Attorney of Record
Registration No. 24,618

James J. Kelly, Ph.D.
Registration No. 41,504

DOCKET NO: 0010-1066-0

Marked-Up Copy
Serial No: 09/459,573
Amendment Filed Herewith

IN THE CLAIMS

--Claims 1-44 (Cancelled)

Claims 45-53 (New).--